

## **REMARKS**

In response to the Final Office Action mailed January 22, 2009, the Examiner's claim rejections have been considered. Applicants respectfully traverse all rejections regarding all pending claims and earnestly solicit allowance of these claims.

### **1. Summary of Telephone Interview**

Applicants wish to thank The Examiner for the opportunity of a telephone interview on May 27, 2009 to further clarify the arguments presented in the amendment dated December 15, 2008. Marvin Hein, Agent for the Applicants, and David Caracappa, Attorney for the Applicants, participated with The Examiner in the telephone interview.

Aspects of the invention related to simulating play of a Class III style game in a fixed pool, non-Class III environment were discussed. The Applicant's representatives reiterated the arguments of the prior amendment in light of the discussion. The Examiner raised U.S. Patents 5,611,729 and 5,709,603 as possible related art. The Applicant's representatives suggested U.S. Patent 6,537,150 as a source of background information, pointing out that Patent 6,537,150 was barred from use as prior art since it was commonly owned at the time of the present application. In light of the discussion, Applicant's representatives proposed amending the independent claims of the application to more clearly reflect simulation of a Class III game in a fixed pool environment. The Examiner agreed to consider such amendments.

Applicants state that U.S. Patent No. 6,537,150 and the present invention were both owned by Sierra Design Group at the time the invention was made. Accordingly, Applicants respectfully submit that Patent 6,537,150 does not qualify as prior art under 35 U.S.C. § 103(a) and, therefore, cannot be used as a future basis of rejection.

### **2. Claim Rejections – 35 U.S.C. § 103(a)**

Claims 1-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Tulley, et al. (U.S. Patent No. 7,179,168) in view of Nicastro (U.S. Patent Publication No. 2003/0027619). Applicants respectfully traverse this rejection. For the sake of brevity, the rejections of the independent claims 1, 6 and 11 are discussed in detail on the understanding that

the dependent claims are also patentably distinct over the cited art, as they depend directly from their respective independent claims. Nevertheless, the dependent claims include additional features that, in combination with those of the independent claims, provide further, separate and independent bases for patentability.

Applicants have amended independent claims 1, 6 and 11 to more clearly reflect simulation of a Class III style game in a fixed pool environment. The specification recites the differences between Class II and Class III style games on page 2, while various embodiments of a fixed pool of gaming results derived from a Nevada-style (Class III style) game having bonus rounds can be found starting on page 15 of the Specification.

Applicants respectfully submit that the combination of Tulley and Nicastro fails to disclose all the claimed elements. As amended, the claimed invention provides a gaming system using a fixed pool of results based on a Class III style game to provide games in which a base game and bonus game may be presented to a player in a simulation of the Class III style game based upon a single game result sent from a central server. The claimed invention is not taught, suggested or disclosed by Tulley or Nicastro.

Applicants have also reviewed U.S. Patents 5,611,729 and 5,709,603, suggested by the Examiner as discussed above. However, Applicants do not believe that these patents affect the patentability of the newly amended claims included with this Amendment.

In conclusion, Applicants respectfully submit that Tulley and Nicastro do not render the claimed invention obvious and respectfully request that the 35 U.S.C. § 103(a) rejection to claims 1-15 be withdrawn.

**CONCLUSION**

Applicants have made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of all of claims 1-15 is believed to be in order, and a timely Notice of Allowance to this effect is respectfully requested.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned agent at (702) 584-7209. The undersigned can normally be reached Monday through Friday from about 9:00 AM to 5:00 PM Pacific Time.

Respectfully submitted,

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